

OFFICE OF THE MONITOR

*NUNEZ, ET AL. V. CITY OF NEW YORK, ET AL.*

Steve J. Martin  
Monitor

Anna E. Friedberg  
Deputy Monitor

135 West 41<sup>st</sup> Street, 5th Floor  
New York, NY 10036  
+1 646 895 6567 | [afriedberg@tillidgroup.com](mailto:afriedberg@tillidgroup.com)

July 31, 2020

**VIA ECF**

The Honorable Laura T. Swain  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10006

**MEMO ENDORSED**

*Re: Nunez, et al. v. City of New York, et al., 11-cv-5845 (LTS) (JCF)*

Dear Judge Swain,

We write to provide a status report pursuant to the Court's July 6, 2020 order (dkt. 344) regarding the Parties' efforts to reach a joint agreement on a Remedial Order and to provide an update on the Parties' efforts to determine the next steps regarding the applicability of the *Nunez* requirements to 16- and 17-year-olds going forward.

**I. Update on "Efforts to Advance Reforms and Address Areas of Concern"**

The Monitoring Team has worked very closely with the City, Department, Counsel for the Plaintiffs' Class, and SDNY (jointly the "Parties") over the last month to reach an agreement on a proposed Remedial Order.<sup>1</sup> All stakeholders have been working diligently, in good faith

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<sup>1</sup> The Parties have reached agreement on the Monitor's substantive recommendations to modify certain Consent Judgment provisions (there is one outstanding issue regarding reporting) as well as the recommendations to terminate or deactivate certain provisions as outlined in the Monitoring Team's July 2, 2020 status update.

and we have had productive discussions in an attempt to reach agreement. The Monitoring Team continues to strongly encourage the Parties to work together to reach a joint agreement, although more time is needed to determine whether this can be achieved. The Monitoring Team will provide the Court with a status update on August 5, 2020 outlining next steps if the Parties have not otherwise submitted a joint agreement to the Court.

## **II. Update on Applicability of Nunez to 16- and 17- year-olds Going Forward**

There are no Pre-Raise the Age Youth<sup>2</sup> in custody as of July 27, 2020. Accordingly, the Monitoring Team has ceased monitoring activities at Horizon Juvenile Center (“HOJC”) unless or until an agreement is reached regarding the ongoing monitoring of Adolescent Offenders.<sup>3</sup> This heightens the importance of reaching an agreement as soon as possible. The Monitoring Team has worked with City and ACS leadership to facilitate the development of a proposal regarding potential oversight of 16- and 17-year-old going forward. This proposal was shared with Counsel for the Plaintiffs’ Class, and SDNY on July 24, 2020. The Monitoring Team believes that the Parties will be in a position to reach a joint agreement and strongly encourages an efficient and timely negotiation process. The Monitoring Team will provide all necessary support to facilitate the development of an agreed upon approach. We recommend August 28, 2020 as a reasonable, but appropriately aggressive deadline to achieve agreement. The

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<sup>2</sup> Pre-Raise the Age Youth are: (1) all 16- and 17-year-old youth previously incarcerated on Rikers Island and who were detained as of October 1, 2018, and (2) any 17-year-old youth arrested and detained between October 1, 2018 and September 30, 2019.

<sup>3</sup> Adolescent Offenders are a new legal status, created by the Raise the Age legislation, for 16- and 17-years-olds who are arrested for a felony-level crime. The implementation of this law was staggered so this new category of offenders was applied to 16-year-old youth beginning on October 1, 2018 and 17-year-old youth on October 1, 2019. See, <https://www.ny.gov/raise-age/raise-age-implementation#adolescent-offender>.

Monitoring Team will provide the Court with a status update on August 28, 2020 outlining next steps if the Parties have not otherwise submitted a joint agreement to the Court.

Sincerely,

s/ Steve J. Martin  
Steve J. Martin  
*Monitor*

s/ Anna E. Friedberg  
Anna E. Friedberg  
*Deputy Monitor*

s/Christina B. Vanderveer  
Christina B. Vanderveer  
*Associate Deputy Monitor*

The Court is encouraged to hear that productive work continues and will look forward to the above-referenced status reports.

SO ORDERED.

7/31/2020

/s/ Laura Taylor Swain, USDJ